HIGH COURT OF JUDICATURE AT BOMBAY
CIVIL APPELLATE JURISDICTION

CIVIL APPLICATION (F) NO. 2770 OF 2005.
IN
FIRST APPEAL NO. 328 OF 1998.

M/s. Jolly Steel Industries & Anr. ..Appellants.

Versus.

M/s. Gupta Steel Industries & Ors. ..Respondents.

Ms.Seeja John i/b M/s. M.P.Savla & Co., for the applicants.

Mr. C.J.Sawant i/b Vijay Patil for the respondents.

CORAM: S.B.MHASE &
S.R.SATHE JJ

DATE: JULY 11, 2005.

P.C.

1. This is an appellant's application. The learned counsel for the applicant has not pressed for relief under clause (a) of the prayer clause of the present civil application. However, the learned counsel pressed for the relief under clause (b) which reads thus:

> "that the order of furnishing Bank Guarantee be modified to include the payment of interest at 18% per annum from the date of withdrawal of the amount by Respondent till payment, if appellant succeeds."

2. As on today, the appellant is an unsuccessful litigant in the trial court and the enquiry as to the mesne profits is going on. Certain amounts were deposited by the appellant pending the matter as per the consent terms which went to the Supreme Court, that amount was withdrawn by the respondent on furnishing bank guarantee to the effect that in case the appellant succeeds, the respondent will return the said amount. Now, the appellant wants to contend that the principal amount has been secured but the interest on the said amount is not secured. Therefore, he wants that a further bank guarantee at the rate of 18% p. a. on the said principal amount be obtained from the respondent. Thus, the unsuccessful appellant is trying to get bank guarantee from a successful respondent as on today. What is to happen in appeal, we are not aware. However, all this is being claimed in an hypothetical manner, if the appellant succeeds he will be entitled to get interest. It is an attempt to build a castle in the air. The application is therefore, rejected.

(S.R.SATHE,J.) **(S.B.MHASE, J.)**

:srp/2005/